

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOSE A. RODRIGUEZ,

Plaintiff,

-against-

ELVIS SARITA DURAN; CEANNA TODISCO;  
ANAICA ALLEN,

Defendants.

23-CV-10975 (JGK)

ORDER OF SERVICE

JOHN G. KOELTL, United States District Judge:

Plaintiff brings this *pro se* action under the Age Discrimination in Employment Act of 1967 (“ADEA”), 29 U.S.C. §§ 621-634, the New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297, and the New York City Human Rights Law, N.Y.C. Admin. Code §§ 8-101 to 131, alleging that his employer discriminated against him based on his age. By order dated December 21, 2023, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”).

As discussed in this order, the Court directs the Clerk of Court to (1) add as a defendant, under Rule 21 of the Federal Rules of Civil Procedure, Plaintiff’s employer, Samaritan Daytop Village; and (2) prepare the appropriate materials and deliver them to the United States Marshal for service on the named Defendants.

**DISCUSSION**

**A. Samaritan Daytop Village**

Under the ADEA, Plaintiff may assert claims against his employer. *See Cherry v. Toussaint*, 50 F. App’x 476, 477 (2d Cir. 2022) (summary order). In light of Plaintiff’s *pro se* status, and clear intention to bring claims against his employer, the Court construes this employment discrimination complaint as asserting claims against Samaritan Daytop Village and directs the Clerk of Court to add Plaintiff’s employer as a defendant. *See* Fed. R. Civ. P. 21.

**B. Order of Service**

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.<sup>1</sup> *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendants Samaritan Daytop Village, Elvis Sarita Duran, Ceanna Todisco, Anaica Allen through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for these defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

If the complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

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<sup>1</sup> Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

## CONCLUSION

The Court directs the Clerk of Court to add Samaritan Daytop Village as a defendant. *See* Fed. R. Civ. P. 21.

The Clerk of Court is further instructed to (1) issue summonses for Samaritan Daytop Village, Elvis Sarita Duran, Ceanna Todisco, Anaica Allen, (2) complete the USM-285 forms with the addresses for these defendants, (3) deliver all documents necessary to effect service to the U.S. Marshals Service, and (4) mail Plaintiff an information package.

Plaintiff may receive court documents by email by completing the attached form, Consent to Electronic Service.<sup>2</sup>

SO ORDERED.

Dated:

New York, New York

1/17/24



JOHN G. KOELTL  
United States District Judge

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<sup>2</sup> If Plaintiff consents to receive documents by email, Plaintiff will no longer receive court documents by regular mail.

**DEFENDANTS AND SERVICE ADDRESSES**

1. Samaritan Daytop Village  
138-02 Queens Boulevard  
Briarwood, NY 11435-2647
2. Elvis Sarita Duran  
138-02 Queens Boulevard  
Briarwood, NY 11435-2647
3. Ceanna Todisco  
138-02 Queens Boulevard  
Briarwood, NY 11435-2647
4. Anaica Allen  
138-02 Queens Boulevard  
Briarwood, NY 11435-2647



**United States District Court  
Southern District of New York  
*Pro Se Office***

**Pro Se (Nonprisoner) Consent & Registration Form to Receive  
Documents Electronically**

Parties who are not represented by an attorney and are not currently incarcerated may choose to receive documents in their cases electronically (by e-mail) instead of by regular mail. Receiving documents by regular mail is still an option, but if you would rather receive them only electronically, you must do the following:

1. Sign up for a PACER login and password by contacting PACER<sup>1</sup> at [www.pacer.uscourts.gov](http://www.pacer.uscourts.gov) or 1-800-676-6856;
2. Complete and sign this form.

If you consent to receive documents electronically, you will receive a Notice of Electronic Filing by e-mail each time a document is filed in your case. After receiving the notice, you are permitted one "free look" at the document by clicking on the hyperlinked document number in the e-mail. Once you click the hyperlink and access the document, you may not be able to access the document for free again. After 15 days, the hyperlink will no longer provide free access. Any time that the hyperlink is accessed after the first "free look" or the 15 days, you will be asked for a PACER login and may be charged to view the document. For this reason, *you should print or save the document during the "free look" to avoid future charges.*

**IMPORTANT NOTICE**

Under Rule 5 of the Federal Rules of Civil Procedure, Local Civil Rule 5.2, and the Court's Electronic Case Filing Rules & Instructions, documents may be served by electronic means. If you register for electronic service:

1. You will no longer receive documents in the mail;
2. If you do not view and download your documents during your "free look" and within 15 days of when the court sends the e-mail notice, you will be charged for looking at the documents;
3. This service does *not* allow you to electronically file your documents;
4. It will be your duty to regularly review the docket sheet of the case.<sup>2</sup>

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<sup>1</sup> Public Access to Court Electronic Records (PACER) ([www.pacer.uscourts.gov](http://www.pacer.uscourts.gov)) is an electronic public access service that allows users to obtain case and docket information from federal appellate, district, and bankruptcy courts, and the PACER Case Locator over the internet.

<sup>2</sup> The docket sheet is the official record of all filings in a case. You can view the docket sheet, including images of electronically filed documents, using PACER or you can use one of the public access computers available in the Clerk's Office at the Court.



**United States District Court  
Southern District of New York  
Pro Se Office**

**CONSENT TO ELECTRONIC SERVICE**

I hereby consent to receive electronic service of notices and documents in my case(s) listed below. I affirm that:

1. I have regular access to my e-mail account and to the internet and will check regularly for Notices of Electronic Filing;
2. I have established a PACER account;
3. I understand that electronic service is service under Rule 5 of the Federal Rules of Civil Procedure and Rule 5.2 of the Local Civil Rules, and that I will no longer receive paper copies of case filings, including motions, decisions, orders, and other documents;
4. I will promptly notify the Court if there is any change in my personal data, such as name, address, or e-mail address, or if I wish to cancel this consent to electronic service;
5. I understand that I must regularly review the docket sheet of my case so that I do not miss a filing; and
6. I understand that this consent applies only to the cases listed below and that if I file additional cases in which I would like to receive electronic service of notices of documents, I must file consent forms for those cases.

**Civil case(s) filed in the Southern District of New York:**

**Note:** This consent will apply to all cases that you have filed in this court, so please list all of your pending and terminated cases. For each case, include the case name and docket number (for example, John Doe v. New City, 10-CV-01234).

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Name (Last, First, MI)

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Address	City	State	Zip Code
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Telephone Number	E-mail Address
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Date	Signature
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**Return completed form to:**

Pro Se Office (Room 200)  
500 Pearl Street  
New York, NY 10007